

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Office of Fire and Aviation
3833 S. Development Avenue
Boise, Idaho 83705-5354

May 12, 2004

In Reply Refer To:
9210 (FA-640) I

EMS Transmission 05/12/04
Instruction Memorandum No. OF&A 2004-018
Expires: 09/30/05

To: State Directors

From: Director, Office of Fire and Aviation

Subject: Fire Trespass Program Update

This instruction memorandum (IM) contains guidance for the fire trespass program and is in response to the Interior Board of Land Appeals (IBLA) decisions regarding strict liability, and the opinions outlined in the Solicitor's letter of March 9, 2004. A copy of the Solicitor's letter is attached to this IM. Based on the IBLA decisions, and Solicitor's letter, fire trespass cases should proceed only if there is evidence of negligence or intent by the responsible party.

This IM amends the Fire Trespass Handbook (H-9238-1) Chapter 1, Part C (1) regarding the role of the Field Office Manager (FOM). Under the revised guidelines, the Field Office Manager is responsible for reviewing the case file, and with input from fire staff and the state or regional Solicitor's Office, makes the decision to proceed or close the case based on the evidence of either negligence or intent. If the FOM determines there is a case involving negligence or intent, then the case moves forward. If there is no case for negligence or intent, the case should be closed, and the reasons for closure identified, i.e. lack of evidence of negligence or intent.

State and field offices are encouraged to review past fire trespass cases that have not been closed to determine if they meet the negligence or intent standard. If they do not meet that standard, then these cases should be closed and recorded. If evidence of negligence or intent is found, then the cases should move forward as outlined in the Fire Trespass Handbook.

The requirement to identify evidence of negligence or intent highlights the importance of establishing and following proper guidelines in fire cause determination and any subsequent fire investigation. It has been shown that with proper cause determination and a thorough follow-up investigation, many cases can meet the negligence or intent threshold. To provide the FOM with the best possible information for their decision to proceed, fire cause determination and the extended investigation should be thorough and well documented. These efforts should follow the existing guidance found in the Fire Trespass Handbook.

Human-caused fires can threaten community and resource values, and have the potential to become elevated to a national security issue. Fire cause determination and fire investigation, as part of the fire trespass program, are important tools for reducing those threats by identifying trends and tracking human-caused fires.

In response to current issues and demands on the fire trespass program, a task group will be formed in the near future to revise the Fire Trespass Handbook. When that work is completed, additional information about updates to this program will be issued.

If you have any questions about this guidance or other fire trespass issues, please contact John Owens, Office of Fire and Aviation, Planning and Resources Group at 208-387-5186.

Signed by:
Debie Chivers
Acting Director
Office of Fire and Aviation

Authenticated by:
Pat Lewis
Supervisory Mgmt. Asst.
Office Services

Distribution:

Fire Program Advisor, FA-101,WO
BLM ADs
OF&A Management Team
BC Library